

in opinion

September 18, 1957

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CONCORD, N.H.

Ernest L. Sherman, Executive Director —
State Planning and Development Commission
State House Annex
Concord, New Hampshire

Dear Sir:

In your letter of September 11, 1957, you referred to our recent discussion concerning the bounds of the several regions of the State, and you requested the views of this office concerning steps which should precede the distribution of appropriated funds to the regional associations. As you noted, my attention was drawn to the matter in the course of the interpretation of a statute. In this statute (Laws 1957, c. 364) the Legislature in establishing a Seacoast Water Commission had used, along with other expressions, the term "seacoast region of the state" as descriptive of the area from which membership in such Commission was to be drawn; and my research into just what might have been intended by this language led to our discussion.

In the course of our conversation you directed my attention to page 48 of New Hampshire State Planning and Development Commission Biennial Report, 1936-1937 at which is found the following comment:

"To assist in planning and promotional work, the Commission has tentatively divided the state into six regions, characterized by more or less geographical and economic homogeneity, and each presenting problems of recreational development somewhat inter-related throughout its area. These six regions are shown on the map on page 4, and are as follows:

[Here follows a general description of each of the six regions.]

"In each of these regions the Commission has encouraged the formation of 'regional development associations,' whose purpose and function is to study and plan for their regional development and to promote such development by publicity and other methods.

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To date, the Lakes, the Seacoast and the Monadnock regions have formally organized and are conducting programs of real value. In the North Country region an informal organization exists and consideration is being given to an active association. The Dartmouth-Lake Sunapee Region Association has just been organized."

You next referred me to the Minutes of the meeting of the Commission of November 18, 1941, from which this is an excerpt:

"EXTENSION OF SEACOAST REGION ASSOCIATION:

The Commission considered the request from the Board of Directors of the Seacoast Regional Development Association that its region be expanded to include the following towns immediately to the west, - Atkinson, Brentwood, Danville, Epping, East Kingston, Fremont, Hampstead, Kingston, Lee, Newton, Nottingham, Plaistow, Sandown, and South Hampton. The Commission

VOTED: (upon motion by Commissioner Holbrook, seconded by Commissioner Shorey) That the towns of Atkinson, Brentwood, Danville, Epping, East Kingston, Fremont, Hampstead, Kingston, Lee, Newton, Nottingham, Plaistow, Sandown, and South Hampton be included in the area designated as the Seacoast Region of New Hampshire and that the New Hampshire Seacoast Regional Development Association be so notified."

Finally, you showed me a map of the State entitled Six Regional Divisions of New Hampshire 1950.

I suggested to you in passing that upon a cursory examination of the record in the office of the Secretary of State (Volume 82, page 217) the area of interest of the Seacoast Regional Association as set forth in its charter did not appear to be coterminous with the area designated on the map last referred to as the "Seacoast Region". Whether or not there is a variation with respect to other regional associations and the areas in which they operate I do not know.

I might state at this point that such variation, if upon further research there be found one in fact to exist, does not - in the absence of Commission action - impose any legal disability whatsoever upon the association from receiving a share of the funds appropriated. That is to say, in the appropriation act there is no language which expressly requires that a regional association conform its bounds with the bounds of the several divisions as designated by the Commission.

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Rather, the language of the appropriation act (Law 1957, c. 320) is as follows (and it has been in substantially this form for a number of years):

"* This appropriation shall be administered by the state planning and development commission for the aid of regional development associations. Not more than \$3,500.00 may be allotted by the commission to any one regional association whose bounds, form of organization and program shall have first been approved by the commission. Any unexpended portion of this appropriation shall lapse and shall not be transferred to any other state appropriation."

My conclusion in all the circumstances was simply this: prior to the annual disbursement of funds to any given regional association, it ought to appear as a matter of record in the Minutes of the Commission that the bounds, form of organization and program of such association had been considered and approved by the Commission.

It may be argued that the Commission may have registered such approval with respect to each association at some time in the past; and that such action, once taken, need not annually be repeated. This may be so. There are, however, arguments which, in my judgment, are of greater force and which lead to a contrary conclusion. Since the regional associations are private organizations, they are, of course, free at any time to change their respective areas of interest, the form of their organizations, and their particular programs. Thus changes might well take place between one disbursement and the succeeding disbursement. Secondly, the Legislature in each succeeding appropriation act has used again the language requiring approval. If approval granted at some time in the past were deemed sufficient repetition would have been omitted. The two considerations - the possibility of a change in bounds, organization and program between annual disbursements, and the repetition of the legislative language tend strongly to the conclusion that these matters should be considered prior to each disbursement.

Very truly yours,

Warren E. Waters
Deputy Attorney General

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